

***United States Court of Appeals
for the Second Circuit***



**SUPPLEMENTAL
APPENDIX**

77-1230

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 77-1230

UNITED STATES OF AMERICA,
PLAINTIFF-APPELLEE,
V.
VICTOR W. SYMS,
DEFENDANT-APPELLANT.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

SUPPLEMENTAL APPENDIX TO BRIEF
OF APPELLANT VICTOR W. SYMS

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PAGINATION AS IN ORIGINAL COPY

1 A Yes, I did.

2 Q Prior to December 25?

3 A Yes.

4 Q Where did the arrest occur on December 25?

5 A 132 Hampton Street.

6 Q What caused you to go to 132 Hampton Street?

7 A Well, I usually come in to work at four. I was
8 advised when I came in at four on this day by Sergeant Cicero
9 that he had received a call that this party was at 134
10 Hampton Street.

11 Q Did Sergeant Cicero tell you who had called him?

12 A No, he said the party refused to give his name.

13 Q Did you have a telephone conversation with anyone
14 after your conversation with Sergeant Cicero?

15 A Yes, we went out to 134 Hampton Street, and there
16 wasn't nobody at the apartment that we went to.

17 Q Who is "we"?

18 A I took some other officers with me, to assist me
19 in picking him up.

20 Q What did you do when you arrived at 134 Hampton
21 Street the first time?

22 A We knocked on the door. No one came to the door,
23 so we went back to the office. We went around the building,
24 checked it out, and went back to the office.

25 THE COURT: What kind of building was it,

1 A Two calls, right.

2 Q Did you recognize the voice of the individual on
3 the phone?

4 A No, I didn't pay too much attention to the voice
5 at the time of the call.

6 Q The second call that you got, relate to the Court
7 the substance of that telephone call.

8 A "Man, are you coming? The guy is going to leave.
9 I know he is there, because I just left him there."

10 And I stated to him "Okay, we're coming back out
11 there."

12 Q Did you in your own mind have a feeling as to
13 who the individual was that had made the telephone call?

14 A After we got back out there and everything, I did.

15 Q Who is that?

16 A I felt it was Victor himself.

17 Q Why is that?

18 A From the way the conversation went. And in order
19 for them to see us, when we were out there, there had to be
20 someone watching for us, from the way we went into the
21 building, from where we parked our vehicle.

22 We went out there; we parked at 132, at the rear
23 of 132 Hampton Street, and walked around to the front of
24 134.

25 Q So if someone was in 132, they could, if they looked

1 out the window --

2 A Could see us walking through.

3 Q Saw you walking both to 134, and then as you walked
4 around the building, on the return?

5 A Right.

6 Q Now, you went back to Hampton Street; is that
7 correct?

8 A The second time.

9 Q And that time you went to 132?

10 A Went to 132 Hampton Street.

11 Q Who went with you?

12 A Was two other detectives and a patrolman. Detective
13 Joe Schatz, Mark Haley and also Richard Caron.

14 Q Upon arriving at 132 Hampton Street with the other
15 three officers, what did you do?

16 A Detective Schatz stayed on the outside. Officer
17 Caron had the shotgun. Him and I and Detective Haley went
18 to the door of 132 Hampton Street. I think it was Apartment
19 101.

20 Q Officer Caron was carrying a shotgun?

21 A Right.

22 Q Were you armed?

23 A Yes, I was armed with my weapon in my holster.

24 Q Was Officer Haley armed?

25 A He had his weapon also on the side.

1 Q Was the only officer among those three who was
2 displaying a weapon, was that Officer Caron at that point?

3 A The shotgun, because it is a practice if you are
4 going out to pick up a known felon, you have a backup unit
5 with a shotgun to go along to show force.

6 Q And Detective Schatz -- S-c-h-a-t-z?

7 A Right.

8 Q Where did he go?

9 A He went on the outside, watching the window.

10 Q For what purpose?

11 A In case he was in there and tried to make an escape
12 through the window.

13 Q Now, at the time that you approached the door to
14 that apartment, did you in fact know that Victor Syms was
15 inside?

16 A No, I didn't.

17 Q At the time you approached that door, did you have
18 in your possession a warrant for his arrest?

19 A Yes, I did. I had two Hartford warrants, and I
20 had one Federal warrant for the bank robbery.

21 Q That was the warrant for the bank robbery which
22 he is now charged with?

23 A Right.

24 Q What were the other two warrants?

25 A I believe one was for rearrest, and one might be

1 for larceny 3 or 4, or something like that.

2 Q When you got up to the door, what did you do?

3 A I knocked on the door.

4 Q What happened?

5 A A gentleman came to the door. I said "Detective
6 Campbell, Hartford P.D. Is Victor Syms here?"

7 He said "I don't know."

8 Q Do you know who this gentleman is?

9 A Yes, I do. I don't know him by name, but I know
10 him when I see him.

11 Q Do you know if he bears any relationship to either
12 Victor Syms or Cassandra Robinson?

13 A He is the boyfriend of Cassandra's mother.

14 Q And Cassandra is Victor Syms' girlfriend?

15 A Cassandra is Victor Syms' girlfriend.

16 Q This individual that answered the door was the
17 boyfriend of the woman who rented or owned the apartment?

18 A Right.

19 Q And you had seen him there in the past, too?

20 A I had seen him also.

21 Q He opened the door?

22 A He opened the door.

23 Q What happened?

24 A I stated to him why I was there, who I was looking
25 for. And I asked him was Victor there? He said "I don't know."

1 I say "Is Cassandra back?" I didn't call her name;
2 I said "Is the girl back."

3 He said "She's in there," pointing to her room,
4 with the door closed.

5 I asked him is Victor in there? He said "I don't
6 know."

7 I say "Is the girl in there?" He said "She's in
8 there; that's the door over there."

9 Q During the time of this conversation where were you?

10 A We was at the door.

11 Q Did there come a time when you and the other
12 officers came through the door and went into that door?

13 A We walked into what would be -- into the house.
14 And there was a lady, which is Cassandra's mother, sitting at
15 a table. And I asked her where was her daughter?

16 She said "She's in there."

17 I said "Is Victor here?"

18 She didn't respond. So then I walked over to the
19 door --

20 Q That is the bedroom door?

21 A Right.

22 Q Prior to getting over to the bedroom door, you are
23 at the door to the south side of the apartment?

24 A Right.

25 Q The woman who owns the apartment, her boyfriend

1 BY MR. CRAMER:

2 Q Now, when you first arrived at the apartment at
3 132 Hampton Street -- you never had been in there before?

4 A Yes.

5 Q You had been inside that apartment before?

6 A Not that day, but I had been in there before.

7 Q When were you in there before? For what reason?

8 A I was looking for him. I had been in maybe a
9 couple of days before.

10 Q You never saw Victor Syms in there before?

11 A No, I never saw him.

12 Q And you went up there and suspected that he was in
13 the apartment?

14 A Yes.

15 Q You suspected he was the one who had robbed the
16 bank five days previously?

17 A Yes.

18 Q When you came to the door, did either of you or
19 the other officers have a gun drawn?

20 A A hand gun, no. No hand gun.

21 Q A gun?

22 A A shotgun, no hand gun.

23 Q You had a shotgun?

24 A One officer with a shotgun.

25 Q And when the door was opened that shotgun was facing

1 the person who opened the door?

2 A No, sir.

3 Q Where was the gun?

4 A He was behind the guy who was behind me.

5 Q Could that be seen by the person who opened the
6 door?

7 A I doubt it, no.

8 Q How wide was the hallway? Was it a very narrow
9 hallway or a very wide hallway?

10 A Full width. I don't know. Standing on the side,
11 it can't be seen -- I was the only one seen, when we went.
12 And maybe Detective Haley.

13 Q Where was the man with the gun?

14 A Standing on the side. He wasn't seen with the
15 shotgun.

16 Q How far away from you?

17 A Four or five feet.

18 Q You had no protection if somebody opened the door
19 and shot you?

20 A That's right.

21 Q Is that the way you usually enter the apartment of
22 people charged with felonies?

23 A That's the way we were going in there.

24 Q That's the way you were going in there, but before
25 you went into the bedroom though, you had a gun drawn?

1 A I drewed my gun when I knocked on the door, yes.

2 Q Wnat was the reason for that?

3 A I had reason to believe that he was in there.

4 Q But you also had reason to believe that he was
5 somewhere in the whole apartment?

6 A No.

7 Q You didn't think he was in the apartment when you
8 went there?

9 A We knocked on the door and asked if he was in there.

10 Q Regardless of what response you got, you believed
11 he was there, didn't you?

12 A From the attitude of the guy that opened the door,
13 yes, once he did that.

14 Q Before that, you had a suspicion that he was there?

15 A We had received a call that he was there.

16 Q You didn't attribute much weight to that call, be-
17 cause you didn't know who it was?

18 A Yes, I did, because of the call.

19 Q You believed the caller?

20 A We had to check it out, whether we believed it or
21 not.

22 Q But you had reason to believe the caller?

23 A No, we had to check it out.

24 Q You thought he may be in the apartment?

25 A Yes.

1 not Victor's mother?

2 A Cassandra Robinson's mother.

3 Q Cassandra Robinson's mother?

4 Now, when you came in the apartment, you spoke with
5 the man who opened the door? Did you subsequently find out
6 who that man was?

7 A No, I didn't.

8 Q Do you know who he is now?

9 A Yes, I do.

10 Q What is his name?

11 A I don't know his name. I know him when I see him.
12 I seen him around. I don't know.

13 Q Do you see him in court now?

14 A Yes, I do.

15 Q Is it the gentleman sitting in the back row there?

16 A With the glasses on.

17 THE COURT: For the record, can we stipulate
18 who he is, so that the record will be clear?

19 MR. DABROWSKI: I don't know his name either,
20 your Honor.

21 MR. CRAMER: His name is Donald Sheets, y
22 Honor.

23 BY MR. CRAMER:

24 Q And that gentleman who I referred to is the one who
25 let you into the apartment, and you didn't have any guns

1 A Yes, he did.

2 Q Now, you indicated that one of the reasons you
3 thought Victor Syms was in the bedroom, after you obtained
4 entry in the house, was because of the aptitude of the people
5 inside the house; specifically, the boyfriend of Cassandra's
6 mother, and Cassandra's mother; is that correct?

7 A Right.

8 Q You had previously been to that house; is that
9 correct?

10 A Yes, I did.

11 Q Had you spoken to either of those two individuals?

12 A Both of them.

13 Q About what subject?

14 A If they knew the whereabouts of Victor Syms; if
15 they knew the whereabouts of her daughter, who she had stated
16 had left town with Victor Syms.

17 Q How many times did you go over to 132 Hampton
18 Street prior to December 25th?

19 A Maybe two other. I went there two times.

20 Q On each of those two occasions, was Cassandra's
21 mother and her boyfriend there at the apartment?

22 A On one occasion the boyfriend, but both cases the
23 mother.

24 Q And on the first occasion, was the boyfriend there?

25 A He was there the first occasion.